

2-097A010

**ITEL**

April 2, 1992

**Itel Rail Corporation**

550 California Street  
San Francisco, CA 94104  
(415) 984-4200

Hon. Sidney L. Strickland, Jr., Esq.  
Secretary  
Interstate Commerce Commission  
Washington, DC 20423

RECORDATION NO. 8298

FILED 1423

APR 6 1992 10 32 AM

INTERSTATE COMMERCE COMMISSION

APR 6 10 11 AM '92  
MOTOR OPERATING UNIT

**Re: Termination of Conditional Sale Agreement ("Termination")**

Dear Mr. Strickland:

On behalf of Itel Rail Corporation, the above instrument, in four (4) counterparts, is hereby submitted for filing and recording pursuant to 49 U.S.C. Section 11303(a), along with the \$16 recordation fee.

Please record this Termination under the Conditional Sale Agreement dated as of April 1, 1976, as amended (as amended, the "CSA") between Birmingham Trust National Bank, predecessor to SouthTrust Bank of Alabama, and FMC Corporation, predecessor to Western Savings Fund Society of Philadelphia and EMSEG & Co., which was filed with the ICC on April 22, 1976, under Recordation No. 8298.

The parties to the enclosed document are listed below:

EMSEG & Co.  
c/o Norwest Bank Minnesota, N.A.  
Eighth Street and Marquette Avenue  
Minneapolis, Minnesota 55479

(Vendor)

SouthTrust Bank of Alabama  
420-20th, 7th Floor  
Birmingham, Alabama 35203

(Vendee/Owner Trustee)

Effective as of July 15, 1991, this Termination terminates the CSA in its entirety.

Please return to the undersigned the stamped counterparts not required for filing purposes, together with the ICC fee receipt and acknowledgment letter.

Very truly yours,

*Patricia Schumacker*

Patricia Schumacker  
Legal Assistant

RECORDATION NO. 8298-1  
APR 6 1992 10 30 AM  
INTERSTATE COMMERCE COMMISSION

**TERMINATION OF CONDITIONAL SALE AGREEMENT**

SOUTHTRUST BANK OF ALABAMA, formerly known as

**TERMINATION OF CONDITIONAL SALE AGREEMENT (the "Termination")**  
dated as of July 15, 1991, by and between BIRMINGHAM TRUST NATIONAL BANK,  
a national banking association, as Owner-Trustee ("Owner-Trustee"), and EMSEG & CO.,  
a Minnesota corporation ("EMSEG").

**WHEREAS**, SSI Rail Corp. ("SSI") entered into a participation agreement, as amended (as amended, the "Participation Agreement"), dated as of April 1, 1976, among Schuler Industries, Inc. ("Schuler"), as Owner, Birmingham Trust National Bank, a national banking association, as trustee (the "Owner-Trustee") under a trust agreement (the "Trust Agreement"), dated as of April 1, 1976, with Schuler, and Western Savings, as Investor; and

**WHEREAS**, in furtherance of the Participation Agreement, the Owner-Trustee purchased certain units of railroad equipment from FMC Corporation ("FMC") pursuant to a conditional sale agreement, as amended (as amended, the "CSA"), dated as of April 1, 1976, which was filed with the Interstate Commerce Commission ("I.C.C.") pursuant to 49 U.S.C. Section 11303(a) on April 22, 1976, and given Recordation No. 8298; and

**WHEREAS**, SSI leased from the Owner-Trustee one hundred (100) units of railroad equipment delivered and accepted under the CSA, certain of which units have been destroyed (the "Equipment"), pursuant to a lease of railroad equipment, as amended (as amended, the "Equipment Lease") dated as of April 1, 1976, which was filed with the I.C.C. pursuant to U.S.C. Section 11303(a) on April 22, 1976, and given Recordation No. 8298-B; and

**WHEREAS**, the Equipment was originally identified on Annex B to the CSA and Schedule A to the Equipment Lease as Lessee's/Sublessee's numbers MTW 4000 through MTW 4049, inclusive, and SRN 5150 through SRN 5199, inclusive; and

**WHEREAS**, FMC assigned its interest in the CSA (and the security interest in the Equipment, which was granted to it pursuant to the CSA) to Western Savings pursuant to an agreement and assignment (the "Assignment") dated as of April 1, 1976, which was filed with the I.C.C. pursuant to 49 U.S.C. Section 11303(a) on April 22, 1976, and given Recordation No. 8298-A; and

**WHEREAS**, the Owner-Trustee assigned its rights in the Equipment Lease to Western Savings pursuant to an assignment of lease and agreement (the "Assignment of Lease"), dated as of April 1, 1976, which was filed with the I.C.C. pursuant to 49 U.S.C. Section 11303(a) on April 22, 1976, and given Recordation No. 8298-C; and

**WHEREAS**, EMSEG is successor in interest to Western Savings; and

**WHEREAS**, IteI Rail Corporation ("Rail") is successor in interest to SSI; and

**WHEREAS**, effective as of July 15, 1991, Rail has made all payments due to the Owner-Trustee under the Equipment Lease; and

**WHEREAS**, the Participation Agreement, the Trust Agreement, the CSA, the Assignment, the Assignment of Lease and the Equipment Lease (together, the "Operative Agreements") have expired by their terms; and

**WHEREAS**, Rail purchased from Schuler and Schuler sold to Rail the Equipment pursuant to a Bill of Sale dated as of July 15, 1991; and

**WHEREAS**, Schuler released its interests in the Equipment and in any and all subleases, as they pertain to the Equipment (the "Subleases") and reconveyed the Equipment and any Subleases back to Rail pursuant to a Release and Termination dated as of July 15, 1991 (the "Release"), between Schuler and Rail, which Release was filed with the I.C.C. pursuant to 49 U.S.C. Section 11303(a) on October 30, 1991, and given Recordation No. 8298-H; and

**WHEREAS**, EMSEG and the Owner-Trustee desire to terminate the CSA and the other Operative Agreements and to make the termination of the CSA a matter of public record.

**NOW, THEREFORE**, EMSEG and the Owner-Trustee agree as follows:

1. All capitalized terms used herein shall have the meanings assigned to them in the Operative Agreements, unless otherwise stated.
2. Effective as of July 15, 1991, the CSA and the other Operative Agreements are hereby terminated in their entirety, except as to any rights and obligations that may, by their express terms, survive expiration or termination.
3. This Termination shall be governed by the laws of the State of Minnesota, but the parties shall be entitled to all rights conferred by the laws of the United States permitting filing with the Interstate Commerce Commission.

**IN WITNESS WHEREOF**, the parties have executed and delivered this Termination as of the date first above written.

**EMSEG & CO.**

By C A Newberger  
Name: Catherine A. Newberger  
Title: Assistant Vice President

SOUTHTRUST BANK OF ALABAMA,  
formerly known as

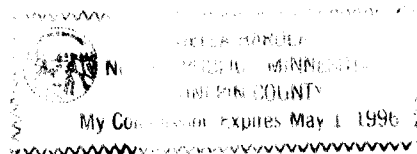
**BIRMINGHAM TRUST NATIONAL BANK,**  
as Owner-Trustee

By Judith B. Miller  
Name: Judith B. Miller  
Title: Senior Trust Officer - Corporate

STATE OF Minnesota )  
COUNTY OF Hennepin ) ss.

On this 19th day of March, 1992, before me personally appeared C. A. Neuberger personally known to me to be the person who executed the within instrument as \_\_\_\_\_ of Emseg & Co. and acknowledged to me that the corporation executed it.

Luella Harder



STATE OF Alabama )  
COUNTY OF Jefferson ) ss.

On this 28th day of March, 1992, before me personally appeared Judith B. Miller, personally known to me to be the person who executed the within instrument as Senior Trust Officer - Corporate of Birmingham Trust National Bank and acknowledged to me that the association executed it. SouthTrust Bank of Alabama, formerly known as

Patricia Michael Harris

My Commission Expires Nov. 6, 1993